



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/698,310	10/27/2000	William L. Reber	83528	6204

22242 7590 05/12/2006

FITCH EVEN TABIN AND FLANNERY
120 SOUTH LA SALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

EXAMINER

KRAMER, JAMES A

ART UNIT PAPER NUMBER

3627

DATE MAILED: 05/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/698,310	Applicant(s) REBER, WILLIAM L.	
	Examiner James A. Kramer	Art Unit 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Art Unit: 3627

DETAILED ACTION

In view of the Appeal Brief filed on 2/6/06, PROSECUTION IS HEREBY REOPENED.

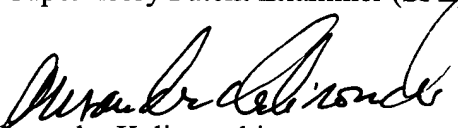
A new grounds of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:


Alexander Kalinowski
5/10/06

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-11 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter because the claimed invention does not provide a practical

Art Unit: 3627

application. Specifically the claimed invention lacks a tangible result. The test for tangibility lies in whether the claimed invention produces a real-world result. Claim 1 recites the following result, “facilitating a task associated with the at least one object based on the image and the task selection.” Further claim 11 recites, “wherein said facilitating the task comprises recognizing the at least one object in the image.”

It is the position of the Examiner that “facilitating the task comprising recognizing” is not a real-world result. As such the claimed invention fails to produce a tangible result and thus a lacks a practical application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,2,5,6,7,11,12,13,16,17,18,22,23,26,27,28 and 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bolle et al in view of Henry.

Bolle teaches capturing an image of at least one object (see for example column 5, line 60 through column 6, line 6).

Bolle further teaches providing a menu of a plurality of object classes (see for example column 16 and column 19, line 61 through column 20, line 2).

Bolle further teaches receiving an object class selection from the menu (see for example column 20, lines 2 through 12).

Art Unit: 3627

Bolle does not specifically teach providing at least one task menu specific to the object class selection, receiving a task selection from the at least one task menu and facilitating a task associated with the at least one object based on the image and the task selection.

Henry teaches a produce recognition apparatus and method of obtaining information about produce items. Specifically Henry teaches after identification of produce providing a task menu specific to the object (produce), receiving a task selection from the at least one task menu and facilitating a task associated with the at least one object based on the image and the task selected (see for example column 1, lines 62-66 and column 2, line 51 through column 3, line 5). Henry teaches this is done in order to provide helpful information about produce items to a customer (see column 3, lines 4-5).

It would have been obvious to one of ordinary skill in the art to modify the produce recognition system of Bolle to include providing a task menu specific to the object (produce), receiving a task selection from the at least one task menu and facilitating a task associated with the at least one object based on the image and the task selected as taught by Henry. One of ordinary skill in the art would have been motivated to make said modification in order to provide helpful information about produce items to a customer.

Claims 3,4,8,9,10,14,15,19,20,21,24,25,29,30 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bolle in view of Henry and in further in view of Slater et al.

The combination of Bolle in view of Henry does not teach a person, company, location or event object class.

Art Unit: 3627

It is the position of the Examiner that image recognition is old and well known in the art. In fact particular image recognition techniques including content identification which includes the identification of one or more objects in a scene captured by an original image. Scene objects may include people, animals, plants, machinery and equipment. Examiner uses Slater as evidence of such old and well know technologies. (see for example column 5, lines 50-60).

Further the Examiner recognizes that the purpose of object recognition in Slater is to provide a picture taker with targeted advertising (see column 5, lines 9-20). However, as Henry teaches that a customer may desire additional information about a piece of produce, Examiner asserts takes Official Notice that it is old and well known in the art for a customer to desire more information about an object in a picture.

As such it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the combination of Bolle and Henry, in order to recognize scene objects via the image processing unit of Bolle and then provide the user with information (tasks) associated with the identified scene objects. One of ordinary skill in the art would have been motivated to combine the art provided in order to allow user to quickly ascertain information desired about an object as is old and well known in the art.

Response to Arguments

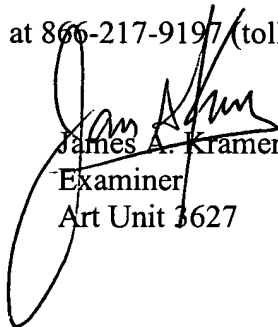
Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Art Unit: 3627

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James A. Kramer whose telephone number is (571) 272 6783. The examiner can normally be reached on Monday - Friday (8AM - 5PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272 6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



James A. Kramer
Examiner
Art Unit 3627

jak
5/10/06